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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,295	09/10/2003	Alvin A. Snaper	5195	5462

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EXAMINER

GREGORY, BERNARR E

ART UNIT PAPER NUMBER

3662

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/660,295

Applicant(s)

SNAPER, ALVIN A.

Examiner

Bernarr E. Gregory

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

1. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Lines 5-7 of independent claim 1 are indefinite and unclear in that there is no clear and definite language to claim means or structure to generate the "control current" to control the Peltier effect cell.

On line 12 of claim 1, the use of the word "inherent" is indefinite and unclear in context in that a truly inherent property of a material would not be susceptible of modification.

Dependent claims 2 and 4 are indefinite and unclear in that as apparatus claims they recite function without clearly and definitely reciting means or structure to implement the stated function. For example, in claim 2 there are no means claimed to permit the user to select the modification.

On line 2 of claim 5, the mention of "radar frequency" is unclear in context in that "radar frequency" is not an "observed property" of any material. Perhaps, resonant frequency is meant.

On lines 2-3 of claim 7, the phrase "is to be hidden" makes the claim indefinite and unclear in that it expresses potential action rather than clearly and definitely claiming action.

Dependent claims 2-9 are unclear in that they depend from unclear independent claim 1.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds et al ('292).

With respect to independent claim 1, Reynolds et al ('292) plain shows the use of one or more Peltier effect thermoelectric cells (column 5, lines 38-48) that affect an "thermally-responsive layer" as to at least visual and infrared properties (abstract).

With respect to the further limitations of dependent claim 2, the apparatus of Reynolds et al ('292) is inherently controlled by the user.

With respect to the further limitations of dependent claim 3, the camouflaging in visible and infrared that is mentioned on the first few lines of the abstract meets the limitations of this claim.

With respect to the further limitations of dependent claim 4, the cell in Reynolds et al ('292) is controlled by a signal received in the cell.

With respect to the further limitations of dependent claim 5, the applied reference meets the limitation of at least "temperature" since infrared camouflaging is done (abstract).

With respect to the further limitations of dependent claim 6, these are met by the camouflaging use of the applied reference.

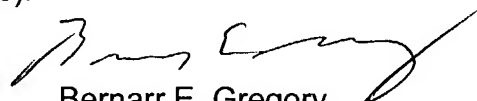
4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The examiner-cited references that have not been applied above are of interest for showing the alteration of an observed property of a material object.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (703) 306-5765. The examiner can normally be reached on weekdays from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (703) 306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bernarr E. Gregory  
Primary Examiner  
Art Unit 3662